

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
- v. -	:	CONSENT PRELIMINARY ORDER
	:	OF FORFEITURE / MONEY
	:	<u>JUDGMENT</u>
GERRY DE JESUS MARTE HERNANDEZ,	:	
	:	13 Cr. 108 (LAP)
Defendant.	:	
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WHEREAS, on or about February 14, 2013, GERRY DE JESUS MARTE HERNANDEZ (the “Defendant”), was charged in an Indictment, 13 Cr. 108 (LAP) (the “Indictment”), with conspiracy to steal government funds, in violation of Title 18, United States Code, Section 371 (Count One); false claims conspiracy, in violation of Title 18, United States Code, Section 286 (Count Two); conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (Count Three); and aggravated identity theft, in violation of Title 18, United States Code, Sections 1028A and 2 (Count Four);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One and Three of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461, of all property, real or personal, constituting or derived from proceeds traceable to the offenses charged in Counts One and Three of the Indictment;

WHEREAS, on or about July 1, 2013, the Defendant pled guilty to Counts One through Four of the Indictment;

WHEREAS, on or about May 1, 2015, the Government seized the following specific property following a consent search of the Defendant’s apartment:

- i. One Rolex gold and stainless steel men's watch, "Submariner Date Rolesor" 40 mm model, serial no. 8X597348;
- ii. One Guess black and gold-tone stainless steel men's watch, model U0428G1, serial no. 73315; and
- iii. One Georgio Milano two-tone stainless steel ladies' quartz chronograph watch, "Nicola," reference no. 908STG02;

(i through iii, collectively the "Seized Property");

WHEREAS, on or about August 17, 2015, a Declaration of Administrative Forfeiture was entered, forfeiting the Seized Property to the United States;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$350,000 in United States currency representing the amount of proceeds traceable to the offenses charged in Counts One and Three of the Indictment that the Defendant personally obtained; and

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offenses charged in Counts One and Three of the Indictment that the Defendant personally obtained cannot be located upon the exercise of due diligence, with the exception of the Seized Property;

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorneys Jerry J. Fang and Frank J. Balsamello, of counsel, and the Defendant and his counsel, Mark I. Cohen, Esq., that:

1. As a result of the offenses charged in Counts One and Three of the Indictment, to which the Defendant pled guilty, a money judgment in the amount of \$350,000 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to

the offenses charged in Counts One and Three of the Indictment that the Defendant personally obtained, shall be entered against the Defendant.

2. The Seized Property, or any proceeds from the sale thereof, shall be applied towards the Defendant's Money Judgment.

3. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant GERRY DE JESUS MARTE HERNANDEZ, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

4. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Department of Treasury, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

5. The United States Department of Treasury or its designee shall be authorized to deposit the payment on the Money Judgment into the Treasury Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

6. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

7. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate

or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.


8. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

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AGREED AND CONSENTED TO:

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York


By:   
Jerry J. Pang / Frank J. Balsamello  
One Saint Andrew's Plaza  
New York, NY 10007  
Tel.: (212) 637-2584 / 2325

11/6/23  
DATE

GERRY DE JESUS MARTE HERNANDEZ

By:   
Gerry de Jesus Marte Hernandez


11/7/23  
DATE

By:   
Mark I. Cohen  
Cohen Frankel & Ruggiero, LLP  
20 Vesey Street, Suite 1200  
New York, New York 10007  
212-732-0002

11/7/23  
DATE

\_\_\_\_\_  
Spanish Interpreter

SO ORDERED:

  
HONORABLE LORETTA A. PRESKA  
UNITED STATES DISTRICT JUDGE

11/8/23  
DATE